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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANTS: Vincent E. Bryan et al      GROUP ART UNIT: 3738  
SERIAL NO.: 08/856,513      EXAMINER: Mary Beth Jones  
FILING DATE: April 19, 1997  
TITLE: "HUMAN SPINAL DISC PROSTHESIS"

Assistant Commissioner for Patents  
Washington D.C. 20231

**PETITION TO FILE AND HAVE ACCEPTED  
DRAWINGS PREVIOUSLY LOST IN PTO**

SIR:

Applicants hereby petition to have the accompanying formal drawings accepted, and the application issued as a U.S. patent in due course.

Previously submitted formal drawings have apparently been lost.

This application was allowed, and a Notice of Allowance and Issue Fee Due was mailed on March 20, 1998. (Exhibit 1) Accompanying that Notice was a Notice of Allowability, requiring Applicants to submit new formal drawings. (Exhibit 2)

In response, Applicants paid the Issue Fee on June 19. (Exhibit 3) A return postcard shows that Issue Fee to have been received in the U.S. Patent Office. (Exhibit 4)

On June 22, the undersigned attorney mailed the formal drawings as required by the Notice of Allowability. The drawing submission bears a Certificate of Mailing. (Exhibit 5)

With those drawings, a return postcard was included.

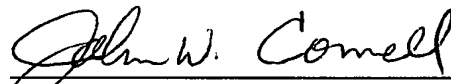
That return receipt postcard has not been received in the undersigned attorney's office. Accordingly, this office instituted a check of the file. Our Washington representative reports that formal drawing are not in the captioned file, and the Patent and Trademark Office has no record of their receipt.

Accordingly, accompanying this Petition is a second Submittal of Formal Drawings. These formal drawings included ten (10) sheets showing Figures 1-14 for the above-identified application.

From a review of the foregoing facts and exhibits, it is apparent that Applicants' earlier submission of corrected formal drawings was inexplicably lost in the mail or in the Patent Office. Applicants' records show that the drawings were timely mailed to the Patent Office on June 22, 1998 under a Certificate of Mailing. Accordingly, no fee is believed to be required. Nevertheless, to be complete, the Commissioner is hereby authorized to charge any fees that may be required to Applicants' Deposit Account No. 08-2290.

Acceptance of this Petition and the accompanying drawings is hereby respectfully solicited.

Respectfully submitted,



(Reg. No. 30,619)

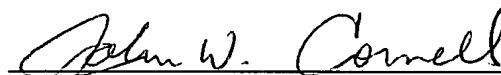
John W. Cornell  
Hill & Simpson  
85th Floor Sears Tower  
Chicago, Illinois 60606  
Telephone: (312) 876-0200  
ATTORNEYS FOR APPLICANTS

CERTIFICATE OF FEDERAL EXPRESS

I hereby certify that this correspondence for Serial No. 08/856,513 is being deposited with Federal Express as Priority Overnight Service in an envelope addressed to:

Brenda Moore (Phone No. 703/305-8126)  
Drafting Division  
United States Patent and Trademark Office  
2231 Crystal Drive  
CP 3 Rm 915  
Arlington, VA 22202

on September 11, 1998.

  
John W. Cornell


**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**
**NOTICE OF ALLOWANCE AND ISSUE FEE DUE**

F3M1/0320

TODD S PARKHURST  
 GARDNER CARTON & DOUGLAS  
 321 NORTH CLARK STREET SUITE 3400  
 CHICAGO IL 60610

APPLICATION NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
08/856,513	04/19/97	009	JONES, M	3308 03/20/98
First Named Applicant	BRYAN, VINCENT			

TITLE OF INVENTION HUMAN SPINAL DISC PROSTHESIS

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEE DUE	DATE DUE
3 P1113DIV	623-017.000	B95	UTILITY	YES	\$660.00	06/22/98

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED.**

**THE ISSUE FEE MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED.**

**HOW TO RESPOND TO THIS NOTICE:**

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status.

A. If the status is changed, pay twice the amount of the FEE DUE shown above and notify the Patent and Trademark Office of the change in status, or

B. If the status is the same, pay the FEE DUE shown above.

If the SMALL ENTITY is shown as NO:

A. Pay FEE DUE shown above, or

B. File verified statement of Small Entity Status before, or with payment of 1/2 the FEE DUE shown above.

II. Part B-Issue Fee Transmittal should be completed and returned to the Patent and Trademark Office (PTO) with your ISSUE FEE. Even if the ISSUE FEE has already been paid by charge to deposit account, Part B Issue Fee Transmittal should be completed and returned. If you are charging the ISSUE FEE to your deposit account, section "4b" of Part B-Issue Fee Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give application number and batch number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.**

YOUR COPY

**Notice of Allowability**Application No.  
**08/856,513**Applicant(s)  
**Bryan et al**Examiner  
**Mary Beth Jones**Group Art Unit  
**3308**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course.

☒ This communication is responsive to March 2, 1998

☒ The allowed claim(s) is/are 23-30 and 35

☐ The drawings filed on \_\_\_\_\_ are acceptable.

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

A SHORTENED STATUTORY PERIOD FOR RESPONSE to comply with the requirements noted below is set to EXPIRE **THREE MONTHS FROM THE "DATE MAILED"** of this Office action. Failure to timely comply will result in ABANDONMENT of this application. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

☐ Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION, PTO-152, which discloses that the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.

☒ Applicant MUST submit NEW FORMAL DRAWINGS

☐ because the originally filed drawings were declared by applicant to be informal.

☒ including changes required by the Notice of Draftsperson's Patent Drawing Review, PTO-948, attached hereto or to Paper No. 3

☐ including changes required by the proposed drawing correction filed on \_\_\_\_\_, which has been approved by the examiner.

☐ including changes required by the attached Examiner's Amendment/Comment.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the reverse side of the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

☐ Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Any response to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE/SERIAL NUMBER). If applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

**Attachment(s)**

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

☐ Interview Summary, PTO-413

☐ Examiner's Amendment/Comment

☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

☐ Examiner's Statement of Reasons for Allowance

*Mary Beth Jones*  
**MARY BETH JONES**  
**PRIMARY EXAMINER**  
**GROUP 3300**

Complete and mail this form, together with applicable fees, to:

Box ISSUE FEE

Assistant Commissioner for Patents  
Washington, D.C. 20231

(3)

**MAILING INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE. Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Issue Fee Receipt, the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

TODD S PARKHURST  
GARDNER CARTON & DOUGLAS  
321 NORTH CLARK STREET SUITE 3400  
CHICAGO IL 60610

F3M1/0320

Note: The certificate of mailing below can only be used for domestic mailings of the Issue Fee Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing.

## Certificate of Mailing

I hereby certify that this Issue Fee Transmittal was deposited with the United States Postal Service with sufficient postage to insure first class mail in an envelope addressed to the Box listed above on the date indicated below.

30285

HOLDEN GRAPHIC SERVICES - (815) 963-5469 CK-HS POA

DATE	6-19-98	posited with first class above on
CLIENT	Spinal Dynamics Bryan	Director's name)
INVENTOR		Signature)
CLIENT NO.		MAILED :
CASE NO.	P98-0376	6/20/98
SER. NO.		
AMOUNT	1660.00	DUE
CHECK NO.	61083	/22/98

APPLICATION NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT
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08/856,513	04/19/97	009	JONES, M
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First Named Applicant	
BRYAN, VINCENT	

TITLE OF INVENTION HUMAN SPINAL DISC PROSTHESIS

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEE DUE
3 P1113DIV	623-017.000	B95	UTILITY	YES	\$660.00

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363). Use of PTO form(s) and Customer Number are recommended, but not required.

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47) attached.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1	HILL & S
2	
3	

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)  
**PLEASE NOTE:** Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the PTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY &amp; STATE OR COUNTRY)

Please check the appropriate assignee category indicated below (will not be printed on the patent)

☒ Individual ☐ corporation or other private group entity ☐ government

4a. The following fees are enclosed (make check of Patents and Trademarks):

☒ Issue Fee  
☐ Advance Order - # of Copies \_\_\_\_\_

4b. The following fees or deficiency in these fees:

DEPOSIT ACCOUNT NUMBER \_\_\_\_\_  
(ENCLOSE AN EXTRA COPY OF THIS FOR

☐ Issue Fee  
☐ Advance Order - # of Copies \_\_\_\_\_

The COMMISSIONER OF PATENTS AND TRADEMARKS IS requested to apply the Issue Fee to the application identified above.

(Authorized Signature)

(Date)

NOTE: The Issue Fee will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the Patent and Trademark Office.

**Burden Hour Statement:** This form is estimated to take 0.2 hours to complete. Time will vary depending on the needs of the individual case. Any comments on the amount of time required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, D.C. 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND FEES AND THIS FORM TO: Box Issue Fee, Assistant Commissioner for Patents, Washington D.C. 20231

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMIT THIS FORM WITH FEE

N. COMMISSIONER OF PATENTS & TRADEMARKS  
WASHINGTON, D.C. 20231

SIR:

PLEASE APPLY A RECEIPT STAMP HERETO AND MAIL TO  
ACKNOWLEDGE RECEIPT OF THE ATTACHED:

BASE ISSUE FEE

Bryan

\$660.00 check,

APPLICANT

TYPE OF DOCUMENT(S)

6/19/98

08/856,513

MAILING DATE

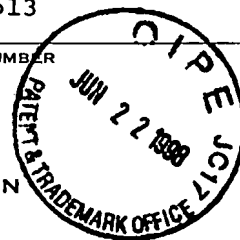
REFERENCE NUMBER

1249

6/22

HILL & SIMPSON  
A PROFESSIONAL CORPORATION

Form 14R



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

SUBMITTAL OF FORMAL DRAWINGS

APPLICANTS: VINCENT BRYAN ET AL. ATTY DOCKET NO.: P98,0776  
SERIAL NO: 08/856,513 GROUP ART UNIT: 3308  
DATE FILED: APRIL 19, 1997 EXAMINER: M. JONES  
DATE ALLOWED: MARCH 20, 1998 BATCH NUMBER: B95  
INVENTION: "HUMAN SPINAL DISC PROSTHESIS"

Assistant Commissioner for Patents

Washington, D.C. 20231

Attention: Official Draftsman

S I R:

In response to the Notice of Allowability dated March 20, 1998, formal drawings overcoming the objections of the Notice of Draftsperson's Patent Drawings Review, PTO-948 is enclosed herewith. The formal drawings include 10 sheets showing Figures 1-14 for the above-identified application. Early acceptance of the enclosed drawings is hereby requested.

Respectfully submitted,

 (Reg. No. 26,494)

TODD S. PARKHURST  
HILL & SIMPSON  
A Professional Corporation  
85th Floor Sears Tower  
Chicago, Illinois 60606  
Telephone: (312) 876-0200

ATTORNEY FOR APPLICANTS

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on June 22, 1998.

 (Reg. No. 26,494)  
TODD S. PARKHURST